

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 18989)
of Victorville Lime Rock Company)
to Appropriate from Unnamed Springs)
in San Bernardino County)

Decision D 1032

ADOPTED AUG 17 '61

DECISION APPROVING APPLICATION

Victorville Lime Rock Company having filed Application 18989 for a permit to appropriate unappropriated water; protests having been received; a hearing having been held by the State Water Rights Board in Los Angeles on November 1, 1960, Chairman Kent Silverthorne presiding; all evidence received at said hearing having been duly considered, the Board finds as follows:

1. Application 18989 is for a permit to appropriate a total of 4,000 gallons per day by direct diversion from January 1 to December 31 of each year for domestic and stockwatering purposes from three unnamed springs in San Bernardino County. One of said unnamed springs is tributary to Devil's Canyon and the other two of said springs are tributary to Bailey Canyon. Both Devil's Canyon and Bailey Canyon are within the watershed of the Santa Ana River.

2. The three unnamed springs are located on the southern slope of the San Bernardino Mountains, about five miles northwest of the City of San Bernardino. In September of 1959, the measured flows from the westerly, the middle, and the easterly springs were at the respective rates of 2 gallons per minute, 0.5 gallon per minute, and 0.25 gallon per minute. The westerly and middle springs were flowing at a reduced rate and the easterly spring was

dry in November of 1960. Any overflow from the springs spreads for a distance of only several feet and sinks into the ground or is consumed by vegetation. There is no surface flow from the springs, and there is no connection with any surface stream.

3. Construction work in connection with each source has been completed, and water is now in use from each source.

4. At the hearing the only appearance by any protestant was by San Bernardino Valley Municipal Water District. It contended there is no water subject to appropriation in the entire Santa Ana River System and for that conclusion relied upon Orange County Water District v. City of Riverside, 173 Cal. App. 2d 137, 343 Pac. 2d 450 (1959). However, this protestant presented no evidence and failed to show any prejudice by the granting of subject application.

5. The applicant presented evidence in support of its application but also indicated it would welcome a finding by the Board that the applicant already owns or has the exclusive right to use all the water from each source, and accordingly, that there is no unappropriated water and no need for a permit. However, such a finding would be beyond the scope of the Board's jurisdiction in this proceeding and, in any event, is not indicated because the applicant has only an unpatented claim with respect to the land where two of the subject springs are located, and the legal title with respect thereto is still in the United States.

6. There is unappropriated water available to supply the applicant, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

7. The intended use is beneficial.

8. The applicant has agreed to a condition requested by the United States Forest Service providing for access of wildlife to the sources.

From the foregoing findings, the Board concludes that Application 18989 should be approved and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the following Order.

IT IS HEREBY ORDERED that Application 18989 be, and the same is, approved, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 4,000 gallons per day by direct diversion to be diverted between January 1 and December 31 of each year for domestic and stockwatering purposes.

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1964.

4. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

5. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

6. Permittee shall not construct or maintain fences or other works which may prevent access to water from the sources hereunder by wildlife.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of , 1961.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member